

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLIVIA Y., by and through her next friend, James D. Johnson; JAMISON J., by and through his next friend, Clara Lewis; DESIREE, RENEE, TYSON, and MONIQUE P., by and through their next friend, Sylvia Forster; JOHN A., by and through his next friend, James D. Johnson; CODY B., by and through his next friend, Sharon Scott; MARY, TOM, MATTHEW, and DANA W., by and through their next friend, Zelatra W.; AND SAM H., by and through his next friend, Yvette Bullock; on their own behalf and behalf of all others similarly situated,

Plaintiffs,

CIVIL ACTION NO.
3:04-CV-251-TSL-FKB

v.

PHIL BRYANT, as Governor of the State of Mississippi; DONALD TAYLOR, as Executive Director of the Department of Human Services; AND BILLY MANGOLD, as Director of the Division of Family and Children's Services,

Defendants.

**PLAINTIFFS' MOTION FOR LEAVE TO SUPPLEMENT
PENDING AMENDED MOTION FOR RELIEF PURSUANT TO REMEDY PHASE OF
PLAINTIFFS' AMENDED MOTION FOR CONTEMPT, FOR AN
EVIDENTIARY HEARING AND FOR THE APPOINTMENT OF A RECEIVER**

Plaintiffs respectfully move this Court for the entry of an Order granting Plaintiffs leave to supplement their pending Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt [Dkt. 849] ("Amended Renewed Motion"). In support of their motion, Plaintiffs state the following:

1. Plaintiffs brought their Amended Renewed Motion on July 3, 2019, pursuant to Federal Rule of Civil Procedure 70(e), the Stipulated Third Remedial Order [Dkt.

713] (“STRO”), and the 2nd Modified Mississippi Settlement Agreement and Reform Plan [Dkt. 712] (“2nd MSA”).

2. On December 23, 2019, Public Catalyst issued the Progress of the Mississippi Department of Child Protection Services: Interim Monitoring Report for *Olivia Y., et al. v. Bryant, et al.* covering January to June 2019 (the “Interim Report”). Attached hereto as **Exhibit 1**.
3. The Interim Report produced by Public Catalyst contains previously unavailable information about Defendants’ large-scale failure to comply with the 2nd MSA during the first two quarters of 2019, which bears on Plaintiffs’ pending Amended Renewed Motion and which warrants a supplementation of this motion. Plaintiffs had no way to obtain the information prior to the issuance of the Interim Report, which documents significant instances of noncompliance, Defendants’ widespread failure to report any relevant data, and instances in which Defendants’ data was inaccurate and could not be validated by the Monitor.
4. Plaintiffs have attached their Proposed Supplemental Memorandum of Law in Support of Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs’ Renewed Motion For Contempt, For an Evidentiary Hearing and For the Appointment of a Receiver hereto as **Exhibit 2**.
5. In further support of this motion, Plaintiffs have attached the Report to the Mississippi Legislature: A Review of the Mississippi Department of Child Protection Services for Fiscal Year 2019 (the “2019 PEER Report”) hereto as **Exhibit 3**.
6. For the reasons stated in this motion, as well as the reasons provided in the accompanying affirmation of Marcia Robinson Lowry, Plaintiffs request that the

Court grant their motion and enter an Order granting leave to supplement their pending Amended Renewed Motion.

7. Plaintiffs also request that this Court grant such other and further relief as this Court deems necessary and proper.

RESPECTFULLY SUBMITTED, this the 27th day of December 2019.

/s/ Marcia Robinson Lowry

Marcia Robinson Lowry (pro hac vice)
Anastasia Benedetto (pro hac vice)
A Better Childhood, Inc.
355 Lexington Avenue, Floor 16
New York, New York 10017
Telephone (646) 808-7344
Email: mlowry@abetterchildhood.org
abenedetto@abetterchildhood.org

Wayne Drinkwater, Jr. (MBN 6193)
Michael J. Bentley (MBN 102631)
BRADLEY ARANT BOULT CUMMINGS LLP
One Jackson Place, Suite 400
188 East Capitol Street
Jackson, Mississippi 39201
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
Email: wdrinkwater@bradley.com
mbentley@bradley.com

CERTIFICATE OF SERVICE

I, Marcia Robinson Lowry, have filed the foregoing on this the 27th day of December, 2019, via the CM/ECF filing system which has served all counsel of record.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry